



ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF INVESTIGATION

SA 16-250

INVESTIGATIVE SUMMARY

CASE NAME: MIGUEL SILICEO & [REDACTED]

CLASSIFICATION: OFFICER MISCONDUCT

AGENCY: FULLERTON POLICE DEPARTMENT

LOCATION: 100 WEST AMERIGE AVENUE, FULLERTON

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PRELIMINARY INVESTIGATION

On Thursday, March 10, 2016, at approximately 1245 hours, Orange County District Attorney (OCDA) Supervising Investigator STAN BERRY contacted me regarding allegations of officer misconduct involving police officers from the Fullerton Police Department (FPD). BERRY briefed me on the known facts of the case and assigned me as the lead investigator. BERRY requested that I contact OCDA Senior Deputy District Attorney (DDA) CYNTHIA NICHOLS regarding the allegations of Filing a False Police Report, Perjury and potential Destruction of Evidence involving FPD Police Officer MIGUEL SILICEO and FPD Police Officer [REDACTED]. I met with DDA NICHOLS and OCDA Investigator RICH AYRES who provided me with an overview of

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the facts related to this case. NICHOLS requested AYRES and I conduct a follow up investigation into the misconduct allegations.

The allegations of misconduct stemmed from the July 9, 2015, arrest of VICTOR SERRANO and his brother LUIS ABEL SERRANO DIAZ at approximately 0230 hours. The arrests were documented under FPD Case #15-44269.

VICTOR SERRANO, 25 years old of Santa Ana was arrested by Officer [REDACTED] and later cited by Officer SILICEO for 647(f) PC – Drunk in public. SERRANO was charged with 647(f) PC – Drunk in Public in OC Superior Court Case #15NM11224 and OCDA Case #15N05885. VICTOR SERRANO was represented by the Orange County Public Defender's Office.

LUIS DIAZ, 34 years old of Santa Ana was arrested by Officer [REDACTED] for 647(f) PC – Drunk in Public. He was cited by Officer [REDACTED] for 415.1 PC – Challenge to Fight, which was crossed out on the citation and the charge of 148(a) PC – Resisting a Peace Officer was substituted. DIAZ was charged with 148(a) PC - Resisting a Peace Officer in Orange County Superior Court Case #15NM11226 and OCDA Case #15N05886. LUIS DIAZ was represented by the Alternate Public Defender's Office.

When the defense attorneys received discovery materials including Body Worn Camera (BWC) videos of the arrests they discovered the video did not match some aspects of the police reports. DEREK BIRCHER of the Alternate Public Defender's Office brought the matter to the attention of the OCDA's Office indicating Officers SILICEO and [REDACTED] lied in their police reports. He also found it suspicious Officer SILICEO's BWC video was never provided.

The charges against VICTOR SERRANO and LUIS DIAZ were ultimately dismissed upon a motion by the OCDA's Office in the furtherance of justice.

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EVIDENCE COLLECTION

On March 10, 2016, DDA NICHOLS provided me with the following documents and compact discs provided by the Fullerton Police Department (FPD) during the discovery process:

- Police reports related to FPD Case #15-44269.
- FPD Memo from FPD Sergeant ROBERT JAMES to FPD Captain SCOTT RUDISIL regarding the re-categorization and subsequent automatic deletion of Officer SILICEO's BWC video.
- Email exchange between FPD Chief DAN HUGHES and FPD Detective GARY SIRIN on March 1, 2016 and March 2, 2016 entitled Jail Video for 7/19/15. The email was included in an email to Senior DDA EBRAHIM BAYTEIH on March 2, 2016.
- An undated FPD memo from FPD Sergeant DANIEL CASTILLO to Captain RUDISIL entitled Body Worn Camera (BWC) Deployment and Evidence Categorization.
- One compact disc containing the following:
 - FPD Audit Data for the following BWC videos:
 - Axon BWC Audit Data entitled 148; ID#15-44269 (Officer [REDACTED]).
 - Axon BWC Audit Data entitled 390; ID#15-44269 (Corporal MICHAEL BOVA).
 - Axon BWC Audit Data entitled 390, ID#15-44269 (Officer EDWARD LEMOINE).
 - Axon BWC Audit Data entitled AXON Body Video 2015-07-09 0226, ID#15-44269 (Corporal DAVID BECERRA).
 - BWC videos for the following FPD officers:
 - BWC Video 148 (Officer [REDACTED]).
 - BWC Video 390 (Corporal BOVA).
 - BWC Video 390-2 (Officer LEMOINE).
 - AXON Body Video 2015-07-09 0226 (Corporal BECERRA).

On March 14, 2016, Sergeant JAMES and Sergeant TIMMOTHY PETROPOULOS provided the following additional documents:

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- An email from FPD Lieutenant ANDREW GOODRICH to the Police Department dated December 8, 2015, entitled BWC Software Update for Phones – IMPORTANT.
- FPD Complaint Hardcopy, CP 2015-44269 dated July 9, 2015 02:28:28, five pages.
- FPD Arrest Hardcopy, AB 2015-3472, related to General Offense #2015-44269 for Arrestee #1 – SERRANO, VICTOR DANIEL, seven pages.
- FPD Arrest Hardcopy, AB 2015-3473, related to General Offense #2015-44269 for Arrestee #1 – DIAZ, LUIS ABEL, six pages.
- FPD City Jail Intake Screening and Triage form for DIAZ, LUIS ABEL, GO#15-44269, on which Sergeant PETROPULOS drew a circle indicating the location where the results of a Preliminary Alcohol Screening (PAS) device or “refused” would normally be indicated.
- FPD City Jail Intake Screening and Triage form for DIAZ, LUIS ABEL, GO#15-44269.
- A blank Correctional Health Services Additional Screening Questionnaire.
- FPD City Jail Intake Screening and Triage form for SERRANO, VICTOR, GO#15-44269, on which Sergeant PETROPULOS drew a circle with “Normal PASD #” indicating the location where the results of a Preliminary Alcohol Screening (PAS) device would normally be indicated.
- FPD City Jail Intake Screening and Triage form for SERRANO, VICTOR, GO#15-44269.

On March 16, 2016, Sergeant JAMES provided the following additional documents:

- Axon BWC Audit Data entitled AXON Body Video 2015-07-09 0226, ID#15-44269 (Officer SILICEO).
- System Log Report – Query Logs dated March 16, 2016, for case #2015-44269.
- FPD Case Notes Print – Case Notes for GO #2015-44269 dated March 16, 2016.
- Request for Overtime Payment for Officer [REDACTED] dated 7-9-15.
- Request for Overtime Payment for Officer SILICEO dated 7-9-15.
- Work Schedule for July 4, 2015 through July 31, 2015 listing days worked by Officer SILICEO and Officer [REDACTED].
- SILICEO, MIGUEL – 1328 Audit Trail dated March 15, 2016.
- SILICEO, MIGUEL – 1328 Audit Trail Highlighted Version dated March 15, 2016.
- Nine PDF documents were delivered by email.

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- o Email from Sergeant DANIEL CASTILLO to Sergeant PETROPULOS entitled RE: Uncategorized Video Spreadsheets dated March 14, 2016, 1 of 9.
- o Email from Sergeant DANIEL CASTILLO to Sergeant PETROPULOS entitled RE: Uncategorized BWC Recordings dated March 14, 2016, 2 of 9. The email contained and second email from Captain JOHN SIKO to PD-Watch Commanders and PD-Sworn Supervisors entitled Uncategorized BWC Recordings dated December 8, 2015.
- o Email from Sergeant DANIEL CASTILLO to Sergeant PETROPULOS entitled RE: Uncategorized Evidence Update (effective date 12-14-2015) dated March 14, 2016, 3 of 9. The email contained and second email from Sergeant DANIEL CASTILLO to PD-Watch Commanders and PD-Sworn Supervisors entitled Uncategorized Evidence Update (effective date 12-14-2015) dated December 14, 2015.
- o Email from Sergeant DANIEL CASTILLO to Sergeant PETROPULOS entitled FW: Uncategorized Evidence Update (effective date 12-24-2015) dated March 14, 2016, 4 of 9. The email contained and second email from Sergeant DANIEL CASTILLO to PD-Watch Commanders and PD-Sworn Supervisors entitled Uncategorized Evidence Update (effective date 12-24-2015) dated December 24, 2015.
- o Email from Sergeant DANIEL CASTILLO to Sergeant PETROPULOS entitled FW: Uncategorized Evidence Update (effective date 12-30-2015) dated March 14, 2016, 5 of 9. The email contained and second email from Sergeant DANIEL CASTILLO to PD-Watch Commanders and PD-Sworn Supervisors entitled Uncategorized Evidence Update (effective date 12-30-2015) dated December 30, 2015.
- o Email from Sergeant DANIEL CASTILLO to Sergeant PETROPULOS entitled FW: "Uncategorized" BWC Video Files dated March 14, 2016, 6 of 9. The email contained and second email from Sergeant DANIEL CASTILLO to PD-Watch Commanders and PD-Sworn Supervisors entitled "Uncategorized" BWC Video Files dated January 26, 2016.

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- Email from Sergeant DANIEL CASTILLO to Sergeant PETROPULOS entitled FW: Incategorized (sic) Video Evidence (as of 2-8-2016) dated March 14, 2016, 7 of 9. The email contained and second email from Sergeant DANIEL CASTILLO to PD-Watch Commanders and PD-Sworn Supervisors entitled FW: Incategorized Video Evidence (as of 2-8-2016) dated February 8, 2016.
- Email from Sergeant DANIEL CASTILLO to Sergeant PETROPULOS entitled FW: Final BWC Memorandum Draft dated March 14, 2016, 8 of 9. The email contained and second email from Sergeant DANIEL CASTILLO to Captain SCOTT RUDISIL entitled FW: Final BWC Memorandum Draft dated January 26, 2016.
- Email from Sergeant DANIEL CASTILLO to Sergeant PETROPULOS entitled Original and New BWC Categories dated March 14, 2016, 9 of 9.

On March 23, 2016, Sergeant JAMES provided the following additional documents:

- FPD Arrest Hardcopy for AB #2015-3472, General Offense #2015-44269 for SERRANO, VICTOR DANIEL.
- FPD Arrest Hardcopy for AB #2015-3473, General Offense #2015-44269 for DAIZ, LUIS ABEL.
- FPD Jail Security Report for July 9, 2015.

On March 24, 2016, Sergeant JAMES provided the following additional document:

- FPD CAD Call Hardcopy for CP #2015-44270 dated July 9, 2015 02:33:58 for a traffic stop on South Raymond Avenue south of the 91 Freeway by Officer SYDNEY SALCIDO which was delivered by LISA NEAL.
- FPD Axon BWC Audit Data entitled Traffic Stop, ID#15-44270 (Officer RICKY REYNOSO) which was delivered by LISA NEAL.
- FPD BWC video entitled Traffic Stop (Officer RICKY REYNOSO) delivered by LISA NEAL.
- Mobile Digital Terminal (MDT) logs for Unit D3 – Officer [REDACTED] Unit 124 – Officer LEMOINE and Unit 129 – Corporal BECERRA for July 9, 2015, from 0230 hours to 0600 hours, which was delivered by email.

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On March 31, 2016, I obtained the following additional documents from DDA NICHOLS

case file:

- OCDA Discovery Request dated August 31, 2015, regarding VICTOR DANIEL SERRANO.
 - OCDA Discovery Response to the request dated August 31, 2015, regarding VICTOR DANIEL SERRANO.
 - OCDA Discovery Request dated September 2, 2015, regarding LUIS ABEL SERRANO DIAZ.
 - OCDA Discovery Request dated November 18, 2015, regarding LUIS ABEL SERRANO DIAZ.
 - OCDA Discovery Response to the request dated November 18, 2015, regarding LUIS ABEL SERRANO DIAZ.
 - Radio Traffic recording from FPD Case #2015-44269 entitled 15-44269(RC).

On June 23, 2016, Sergeant JAMES provided the following additional document:

- FPD Memo from Chief HUGHES to All FPD Employees entitled Directive #15-6 Body Worn Cameras dated January 15, 2015.

INTERVIEWS

I conducted the following audio digital recorded interviews:

- WAYNE WALKER Jailer, Fullerton Police Department
 - JOHN EMA Sergeant, Fullerton Police Department
 - RICKY REYNOSO Police Officer, Fullerton Police Department

OCDA Investigator RICH AYRES and I conducted the following audio digital recorded interviews:

- DAVID BECERRA Corporal, Fullerton Police Department
 - MICHAEL BOVA Corporal, Fullerton Police Department
 - ROB JAMES Sergeant, Fullerton Police Department
 - EDWARD LEMOINE Officer, Fullerton Police Department
 - LISA NEAL Discovery Clerk, Fullerton Police Department

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- VICTOR SERRANO Arrested for 647(f) PC – Drunk in Public

SUMMARY OF EVENTS

After reviewing witness statements, Fullerton Police Department reports, BWC video and other relevant reports and materials, the following summary of events was developed as a result of this investigation:

On July 9, 2015, at approximately 0230 hours, five FPD officers were in the area of 100 West Amerige Avenue, in the city of Fullerton, near Felix's Taco Cart which was parked on the south side of Amerige Avenue between Harbor Boulevard and Malden Avenue. The area was host to a large number of bars and restaurants which closed at 0200 hours. Patrons and the officers were lined up to purchase tacos from Felix's Taco Cart. The location has been the scene of numerous problems when the bars closed which included fights, assaults, and alcohol related crimes including drunk in public. The officers present were [REDACTED], SILICEO, BOVA, BECERRA and LEMOINE.

VICTOR SERRANO and his brother LUIS ABEL DIAZ were present along with two unknown subjects later identified by SERRANO as [REDACTED] and [REDACTED]. [REDACTED] and [REDACTED] were not identified by the FPD officers. At least one of the members of the group began to mock BOVA for being overweight and eating tacos. The subjects were told by officers to leave. All the officers activated their BWC between 0224 hours and 0226 hours as the situation developed.

SERRANO and DIAZ showed signs of intoxication visible in the BWC videos. BECERRA described the subjects as belligerent and intoxicated. BOVA described SERRANO as mouthy and

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very intoxicated having called BOVA fat and old. BOVA described DIAZ as intoxicated also, but not to the same level as SERRANO. LEMOINE described the subjects as "drunk idiots."

Officer [REDACTED] addressed the group, including SERRANO and DIAZ, by saying, "Hey, you can walk to our jail and go to jail for drunk in public. Keep on talking. Keep on talking."

As DIAZ got to the parking lot driveway, he turned toward Officer [REDACTED] and said something unintelligible, this was accompanied by an unknown gesture toward Officer [REDACTED] with his right hand. Officer [REDACTED] then walked purposefully toward DIAZ while unknown male voices can be heard saying, [REDACTED]. DIAZ turned toward Officer [REDACTED] and said, "What the fuck am I doing? I need to talk to this guy right here." DIAZ speech sounded slurred. Officer [REDACTED] responded, "You just talked your friend into going to jail, how about that bud?"

Officer [REDACTED] approached and told SERRANO to put his hands behind his back. Subject #2 was visible west of SERRANO, near a short block wall. SERRANO responded, "Me? Why me? Why me?" As Officer [REDACTED] came within an arm's reach of SERRANO, SERRANO turned toward Officer [REDACTED] and then away from him. As Officer [REDACTED] grabbed SERRANO's right wrist, SERRANO formed a fist and appeared to be pulling his right wrist away from Officer [REDACTED]

As Officer [REDACTED] was attempting to arrest SERRANO, DIAZ walked into the video frame westbound and was firmly pushed further west from behind by Officer SILICEO and went out of the video frame. DIAZ was walking perpendicular to SERRANO and [REDACTED] within approximately 2 feet while [REDACTED] was still attempting to handcuff SERRANO. DIAZ appeared to be manipulating his cellular telephone. He was approximately 1 to 1 ½ steps past [REDACTED] when he was pushed by SILICEO. There was no indication on the [REDACTED] video that DIAZ "ran", "charged" or attempted to "tackle" [REDACTED]

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[REDACTED] arrested SERRANO for 647(f) PC – Drunk in Public. As [REDACTED] attempted to handcuff SERRANO, DIAZ walked toward [REDACTED] and SERRANO while one of DIAZ's friends attempted to guide DIAZ away. As the two approached within an arm's reach of [REDACTED], SILICEO pushed DIAZ and the second subject away from [REDACTED] and SERRANO. DIAZ fell to the ground, but did not appear to be injured.

SERRANO was placed in SILICEO's police car and transported to the FPD jail by SILICEO. DIAZ was arrested a few minutes later by [REDACTED] for 647(f) PC- Drunk in Public after refusing to leave. He was placed in [REDACTED] police car and transported to the FPD jail by [REDACTED]. [REDACTED]'s BWC remained on throughout the transportation and initial processing of DIAZ at the jail. DIAZ taunted [REDACTED] following his arrest while in the police car and in the jail. The taunts were racial in nature related to [REDACTED] being of Asian descent which DIAZ equated to being Vietnamese. [REDACTED] remained professional and did not retaliate or respond in kind.

In documenting the arrest of SERRANO and DIAZ, Officer SILICEO wrote in his police report, "As Officer [REDACTED] was taking VICTOR into custody, I saw LUIS SERRANO (DIAZ) turn and charge at Officer [REDACTED]. LUIS came within a few of Officer [REDACTED] but I was able to push LUIS away with my two hands..."

In documenting the arrest of SERRANO and DIAZ, Officer [REDACTED] wrote in his police report, "As I was placing VICTOR under arrest, one of the subjects that VICTOR was with, later identified as his brother LUIS SERRANO, ran towards me as if he was going to tackle me to prevent me from arresting his brother. Officer SILICEO was able to protect me and pushed LUIS back for my safety."

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LEMOINE's BWC video had the most comprehensive view of DIAZ as he approached [REDACTED]

[REDACTED] and SERRANO. An associate of DIAZ, wearing a short sleeve collared shirt and black pants, appeared to be trying to guide DIAZ away from [REDACTED] and SERRANO as he approached. DIAZ used his left arm to shrug off the associate's hands as he continued to approach. DIAZ was walked within an arm's length of SERRANO and [REDACTED] before he was pushed by SILICEO. There was nothing recorded on the LEMOINE BWC video to indicate DIAZ "ran", "charged" or attempted to "tackle" [REDACTED]. LEMOINE categorized his BWC video as "On View Activity" with the case number 15-44269 as the ID and the title 390 (which is a radio code for a drunk individual) when it was uploaded into the Evidence.com database on July 9, 2015, at approximately 0558 hours. Based on the categorization as On View Activity, the video would be retained by Evidence.com for 180 days.

[REDACTED] categorized his BWC video as "On View Activity" with the case number 15-44269 as the ID and the title 148 when it was uploaded into the Evidence.com database on July 9, 2015, at approximately 0443 hours. Based on the categorization as On View Activity, the video would be retained by Evidence.com for 180 days.

BECERRA's BWC video was activated as DIAZ approached [REDACTED] and SERRANO but the view of DIAZ was obscured by Officer BOVA until SILICEO pushed DIAZ and the other subject. BECERRA categorized his BWC video as "Investigations" with the case number 15-44269 as the ID and the title AXON Body Video 2015-07-09 0226 when it was uploaded into the Evidence.com database on July 9, 2015, at approximately 0610 hours. Based on the categorization as Investigations, the video would be retained by Evidence.com for 2 years.

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BOVA's BWC video was activated after DIAZ had been pushed and was getting up.

BOVA categorized his BWC video as "Arrest" with the case number 15-44269 as the ID and the title 390 when it was uploaded into the Evidence.com database on July 9, 2015, at approximately 0255 hours. Based on the categorization as an Arrest, the video would be retained by Evidence.com for 2 years.

SILICEO's BWC video of the incident was never provided during the discovery process subsequent to the filing of criminal charges. The BWC video was initially not categorized by SILICEO as it should have been when it was uploaded into the Evidence .com Cloud for storage on July 9, 2015, at approximately 0507 hours.

According to FPD policy in effect at the time of the incident SILICEO's BWC video, and the BWC videos of the other officers should have been categorized as an Arrest with the case number and type of incident with a two year retention period by Evidence.com. As an uncategorized video it would be retained indefinitely. The large number of "uncategorized" BWC videos created a storage issue and expense for FPD.

The issue of BWC video categorization was addressed in December of 2015 through a series of emails to supervisors from FPD Captain JOHN SIKO and FPD Sergeant DANIEL CASTILLO. As of December 18, 2015, SILICEO had 640 uncategorized BWC videos which he was instructed to re-categorize. Of the 127 FPD officers with uncategorized BWC videos, SILICEO ranked #14. The #1 FPD officer having the most uncategorized BWC videos had 1735.

On December 23, 2015, between 0838 hours and 1006 hours, Officer SILICEO re-categorized 427 BWC videos including the video of the July 9, 2015, incident. 391 of the videos

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were re-classified as Radio Calls. 35 of the videos were reclassified after they were viewed by Officer SILICEO.

According to Officer SILICEO's BWC Audit Trail, the video recording of the July 9, 2015, incident was reclassified by Officer SILICEO on December 23, 2015, at 0946 hours as a Radio Call. He did not view the video. Based on the re-categorization of the BWC video as a Radio Call the video was retained for 180 days after the incident. The video was automatically deleted on January 12, 2016. There was no backup for the Evidence.com storage and the BWC video could not be recovered.

Based on the categorization of [REDACTED] and LEMOINE's BWC videos as On View Activity, their BWC videos of the incident had the same 180 day retention as SILICEO's BWC video.

VICTOR SERRANO described his arrest and the arrest of DIAZ as follows. They were in Fullerton to celebrate SERRANO's birthday on July 8, 2015, at the Revolution Cantina. SERRANO thought the officers misinterpreted something DIAZ said about a friend who was going to attend the police academy. SERRANO said shortly after the comment by his brother, the officers told him and his group to leave the area. As their group tried to explain to the officers that they were waiting for Uber, an Asian officer turned him around and arrested him for an unknown reason. As the officer started to sit him on the curb, SERRANO said DIAZ turned and started walking back to where SERRANO was being arrested. DIAZ asked the officers why SERRANO was being arrested.

SERRANO said the officers then "tackled" DIAZ and that DIAZ was "roughed up pretty bad." SERRANO said his brother was "pinned on the floor, face down" and then handcuffed.

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SERRANO stated he saw officers put their knees into DIAZ's chest while he was on the ground.

SERRANO's description of the arrest was not consistent with the BWC videos.

SERRANO claimed he had consumed three to four mixed drinks. He admitted DIAZ and he were a little intoxicated. One of the subjects in SERRANO's group can be heard on [REDACTED], LEMOINE and BECERRA's BWC video saying, "We're all drunk. There's no point." following SERRANO's arrest.

DIAZ was told by [REDACTED] he was being arrested for 647(f) PC – Drunk in Public at the arrest location and in the police car. [REDACTED] told FPD dispatch, DIAZ was in custody for "F" which was a police abbreviation for 647(f) PC – Drunk in Public. At some time during the booking process a citation was written by [REDACTED] citing DIAZ for 415.1 PC – Challenge to Fight. The citation was left in the jail for FPD Jailer WAYNE WALKER to give to DIAZ upon release. WALKER said he crossed out the 415.1 PC charge and wrote in 148(a)(1) PC – Resist Peace Officer on the citation. WALKER said he would have changed the charge at the direction of [REDACTED]. He did not know why the charge was changed but said it was common. The Declaration in Support of Arrest Warrant Made Under 2015.5 CCP completed by [REDACTED] continued to indicate "LUIS SERRANO did violate 415.1 PC" and was never updated to reflect a change to 148(a) PC.

FPD Officer RICKY REYNOSO was in the FPD jail booking an arrestee at the same time as Officer SILCEO and [REDACTED] were there on July 9, 2015. SILCEO and [REDACTED] told REYNOSO one of the subjects in their arrest was "415" with them. REYNOSO did not know what caused them to believe the subject was 415. He said it would normally be something like the subject being aggressive or taking a fighting stance. One of the subjects after being arrested was mouthing off to the officers saying he made more money than they did. REYNOSO thought the behavior

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was typical for someone who was intoxicated. SILICEO told REYNOSO he had pushed one of the subjects to the ground because of something that happened between [REDACTED] and the subject who was pushed.

While Officer [REDACTED] had DIAZ in his patrol car DAIZ said, "I'm saying, 'cause if it was, if we, if you and I had to get down, bro, you have no idea, bro. I wish we could fucking get locked up in a (unintelligible) right now." [REDACTED] seemed to interpret this as a threat based on his response saying, "Is that a threat, sir? 'Cause I could charge you with that too." DIAZ responded, "No, no, I'm just saying, like what did I do?" To this [REDACTED] replied, "You know, I'm gonna add that charge, sir, 'cause you're threatening me."

FPD Sergeant JOHN EMA reviewed and approved the DIAZ arrest report but had no recollection of the incident. In addition to spelling and grammar, he would have reviewed the police report for elements of the crime. I was unable to determine the reason for the changes in the charges for DIAZ.

There was no indication of a Preliminary Alcohol Screening (PAS) test having been administered to SERRANO or DIAZ. According to SILICEO's arrest report, "Jailer WALKER said when he attempted to P.A.S. the subjects, they were already passed out thus no P.A.S. results were available." According to Sergeant JAMES and Sergeant PETROPULOS the P.A.S. results or refusal should have been noted on the FPD City Jail Intake Screening and Triage form.

Jailer WALKER had no recollection of the arrest or booking of SERRANO or DIAZ. He said he was the person who filled out both SERRANO and DIAZ's Intake Screening and Triage forms. WALKER would try to obtain an initial P.A.S. test to determine if an inmate may be in need of medical attention. He said it was not policy, but he would attempt to P.A.S. an inmate prior to

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release from custody to ensure they could be safely released. WALKER had never been instructed by an officer to not P.A.S. an inmate. When a P.A.S. test was taken on intake, the results would normally be posted on the white erase board in the jail office and not necessarily on the triage form. It would sometimes be indicated on the form.

On July 9, 2015, at approximately 0301 hours, FPD Officer RICKY REYNOSO booked a prisoner into the FPD Jail while SILICEO and [REDACTED] were present. REYNOSO's BWC was activated while he was in the jail. On the video WALKER was asked by [REDACTED] if he was going to "have them blow." WALKER said no. There was also some conversation recorded indicating WALKER was busy in the jail that morning. It is not known if there was a later attempt to administer the P.A.S. in which WALKER discovered SERRANO and DIAZ passed out.

VICTOR SERRANO said he didn't really have a chance to sleep in the jail because he was too busy thinking about what had happened and what his mother was going to think. He said he was never asked to provide a breath sample while at the jail.

During the discovery process for the prosecution of SERRANO and DIAZ, SILICEO's BWC video was requested on September 8, 2015, September 10, 2015 and again on November 20, 2015. SILICEO's BWC video was never provided.

On January 26, 2016, Sergeant JAMES wrote a memo to Captain RUDISIL regarding the BWC videos from the July 9, 2015 incident. FPD Court Liaison LISA NEAL had accessed all the BWC videos from the incident except for SILICEO's on September 3, 2015. NEAL told JAMES she located the videos by conducting a search of Evidence.com utilizing the GO (case) number. SILICEO's BWC video did not have the case number for the incident listed when it was uploaded.

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When LISA NEAL was interviewed NEAL did not remember if she was able to find BWC footage for Officer SILICEO since she completed so many requests. She also related that she could locate the BWC for officers by a "GO" number or report number. If there was no "GO" number she would attempt to find the BWC using a date and time of the specific incident or by the officers name. She was unaware whether or not she searched for Officer SILICEO's BWC in this manner.

The FPD jail was monitored by multiple video cameras which were recorded. The system crashed twice in 2015 and any video footage of the July 9, 2015, incident was lost and unrecoverable.

VICTOR SERRANO's 647(f) PC – Drunk in Public Orange County Superior Court Case #15NM11224 charges were dismissed on November 4, 2015, following a motion to dismiss by DDA KATE WAGNER.

LUIS DIAZ's 148(a) PC – Resisting a Peace Officer Orange County Superior Court Case #15NM11226 charges were dismissed on December 2, 2015, following a motion to dismiss by DDA MINA SAID in the furtherance of justice.

Officer SILICEO and Officer █ both initially retained Legal Defense Fund attorney SUSAN JERICHI in March 2016. On April 14, 2016, JERICHI told me it was her view that there had been poor report writing in this incident. She understood the concern after viewing the BWC videos and reading the police reports. JERICHI told me SILICEO and █ would submit to voluntary interviews.

The interviews were first scheduled for April 22, 2014, and then changed to April 27, 2016, at the request of SILICEO and █. The April 27, 2016, interview was postponed at the

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request of JERICH due to a family medical issue. The interviews were then scheduled for May 11, 2016. On May 11, 2016, the interviews were cancelled when SILICEO was scheduled to testify in an unrelated criminal case raising legal concerns for JERICH and SILICEO.

Officer SILICEO then retained attorney MICHAEL SCHWARTZ and Officer [REDACTED] retained attorney WILLIAM HADDEN as legal counsel for this investigation. Ultimately, both officers declined to provide a voluntary statement through their attorneys.

LUIS DIAZ, ‘[REDACTED]’ and ‘[REDACTED]’ were contacted in attempts to conduct interviews but did not respond to the requests or messages.

BACKGROUND INFORMATION

VICTOR SERRANO's California criminal history included an arrest for the following charges:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

LUIS ABEL SERRANO DIAZ's California criminal history [REDACTED] [REDACTED] [REDACTED]

[REDACTED]:

- [REDACTED]

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- [REDACTED]
- [REDACTED]
- [REDACTED]).

DIAZ had a valid California driver license issued to him.

MIGUEL SILICEO'S California criminal history [REDACTED] [REDACTED]

[REDACTED]:

- [REDACTED]

[REDACTED] had no criminal history.

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